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STRADDLING FISH STOCKS AND
HIGHLY MIGRATORY FISH STOCKS
New York, 12-30 July 1993

COMMENTS ON COMPLIANCE AND ENFORCEMENT

(Submitted by the delegation of Australia)

1. As indicated in our opening statement to the Conference, Australia believes that conservation and management of straddling stocks and highly migratory fish stocks would be improved significantly by States exercising full and proper control over the activities of their nationals and the vessels which fly their flags. These obligations are contained in the United Nations Convention on the Law of the Sea and have to some extent been neglected.

2. The burden and costs of action to ensure compliance with and enforcement of conservation and management measures should rest with the flag State. The obligations of the flag State should be supplemented and strengthened by regional or subregional monitoring, control and surveillance schemes. In this respect flag States should comply with their duty to cooperate by engaging in monitoring, control and surveillance of fishing vessels, fishing activities and related activities, including transshipment, under appropriate regional arrangements.

3. We hereby offer some thoughts on the manner by which the obligations of the flag State can be given proper effect. The suggestions include provisions from the Chairman's paper (A/CONF.164/L.10) and input provided by various countries to the Chairman.

4. A flag State whose vessels fish on the high seas should take the necessary measures to ensure that its vessels comply with subregional or regional conservation and management measures. Such action should include:

(a) Adoption of national legislative and administrative measures to ensure that vessels flying its flag comply with agreed conservation and management measures and with other international rules and standards established through competent subregional or regional fisheries management organizations or arrangements;

(b) Control of vessels flying its flag on the high seas by means of fishing licences, authorizations and permits issued by the flag State in accordance with national legislation and, where appropriate, international or regional procedures, including the implementation of national legislation to prohibit fishing on the high seas by vessels that are not duly licensed or authorized to fish;

(c) Marking of fishing vessels and fishing gear for identification in accordance with uniform and internationally recognizable vessel- and gear-marking systems, such as the Standard Specifications for the Marking of Fishing Vessels of the Food and Agriculture Organization of the United Nations (FAO);

(d) Supervision of transshipment and verification and validation of catch records through observer programmes, unloading reports, dockside monitoring and monitoring of catch landings and market information;

(e) Implementation of national and regional observation and inspection schemes, including requirements for vessels flying its flag, to permit access by and provide accommodation for observers and/or inspectors from other States;

(f) Use of satellite data transmitter equipment for reporting position, catch and effort information, in accordance with national and regionally integrated systems;

(g) Compliance with the requirements of national, subregional, regional and international registers of vessels authorized to fish on the high seas;

(h) Ensuring that vessels flying its flag comply with global and regional standards for collection of catch, effort and other pertinent data in the agreed format and time-frame;

(i) Funding and conduct of scientific research on fisheries resources and participation in regionally agreed or multilateral scientific observation programmes;

(j) Requiring compliance with international minimum standards for responsible fishing practices;

(k) Cooperation with other States in dealing with fishing vessels not entitled to fly the flag of any other State and vessels which conceal their identity.

5. In addition, States should institute the procedures necessary to ensure effective enforcement of applicable international management measures and other international rules and standards. These procedures should include, as a minimum:

(a) Immediate investigation of any alleged violation of international management measures, or other international rules and standards established through competent subregional or regional fisheries management organizations or arrangements. This should include undertaking physical inspection of the vessel concerned;

(b) Prompt reporting to the aggrieved State and the relevant regional/subregional organization on the progress and outcome of the investigation. Such information should be made available to all interested States;

(c) Institution of penalties in respect of contraventions which should be of sufficient weight to act as a deterrent, to be effective in securing compliance, and which should deprive offenders of any benefits accruing from their illegal activities.